

## **500 KAR 1:020. Filing and processing of death benefit claims.**

RELATES TO: KRS 61.315

STATUTORY AUTHORITY: KRS 61.315(4)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation provides criteria and procedures applicable to filing and processing of death benefit claims for the proper administration of benefits legally required to be paid to the proper party or parties on the death of police officers who have died in the line of duty, as required by KRS 61.315(4) to be promulgated by the Justice Cabinet.

Section 1. Submission of Claim by Proper Party. Death benefit claims shall be filed with the office of the secretary of the cabinet who shall determine the proper party or parties to submit a claim for death benefits in accordance with the following requirements:

(1) The claim shall be submitted and executed by the claimant or the claimant's legally designated representative upon submission of written proof of such designation.

(2) If the claimant is under a disability in terms of mental or physical incapacity or as a result of being a minor, then the claim shall be submitted and executed by the claimant's legally appointed guardian, committee, trustee or other legal representative upon submission of written proof of such disability and proof of the legal authority of representation by means of affidavits, certified court records, or other legal documents.

Section 2. Proof of Relationship. In filing the claim for death benefits the claimant or claimant's representative shall submit the following proof of relationship:

(1) If the claimant is a spouse of the police officer, the spouse shall submit proof of marriage in the form of a duly issued and certified marriage license or certificate, any other certified government or official report, or affidavit of the marriage officiant, or affidavit of two (2) witnesses of the marriage. Such documentation presented shall establish the names of parties married and the date and place of marriage. If the claimant spouse or officer was previously married, certified divorce decrees of all previous marriages shall be submitted.

(2) If the claimant is a child of the police officer, documentation of the relationship and age shall be provided in the form of certified official vital statistics records, adoption decrees, birth certificates, paternity decree, or other government agency records that reveal the age and relationship of the child with the deceased officer. Affidavits of two (2) disinterested credible witnesses or an affidavit of the officer prior to death may provide proof of the officer's recognition of the child as his natural or adopted child if none of the foregoing documentation is in existence.

(3) If the claimant is a parent, proof of such relationship shall be provided in the form of certified vital statistics records, birth certificates, adoption decree or other official government records revealing the parental relationship. Affidavits of two (2) disinterested, credible witnesses may provide proof of the officer's recognition of the claimant as his parent if the foregoing documentation is not in existence.

(4) If the claimant is claiming through an auxiliary police officer appointed pursuant to KRS 95.445, the claimant shall provide the ordinance establishing the auxiliary police force and sufficient official records revealing whether the officer was appointed by the appropriate officials and whether the appointment was for a third, fourth, fifth or sixth class city or urban-county government, and whether a first class city is within the county wherein the auxiliary police officer was appointed.

Section 3. Proof of Death as a Direct Result of an Act in the Line of Duty. The claimant shall provide proof of death of the police officer as a direct result of an act in the line of duty by providing the following:

- (1) A certified copy of the officer's death certificate; and
- (2) Certified employment records substantiating the officer's paid status as required by statute; and
- (3) A certified autopsy report, if requested by the cabinet, or other sworn medical evidence as to the cause of death, and a coroner's report or other formal investigative report, if made; and
- (4) A certified investigative report prepared by the employing agency regarding the circumstances leading to the death.
- (5) Other documents that may be deemed necessary by the office of the secretary.

Section 4. Filing the Claim. (1) In order to file a claim for benefits payable on death of a police officer, the claimant shall file completed forms provided by the office of the secretary of the cabinet including the survivor's claim for death benefits and agency report of police officer's death along with the appropriate documentary proof as requested.

(2) The claim for death benefits shall be filed with the office of the secretary six (6) months from the date of the death of the police officer for which the claim is made, unless the secretary extends the filing deadline for good cause shown by the claimant.

(3) The office of the secretary may at any time require additional evidence to be submitted with regard to entitlement, the right to receive payment, the amount to be paid, or any other material issue.

(4) Whenever a claimant for benefits herein has submitted no evidence or insufficient evidence of any material issue or fact, the office of the secretary shall inform the claimant what evidence is required for a determination as to such issue or fact and request that the claimant submit such evidence within forty-five (45) days from the date of the request of the office of the secretary.

(5) The claimant's failure to submit evidence on a material issue or fact as requested by the office of the secretary shall be a basis for determining that the claimant fails to satisfy the conditions required to award death benefits to the claimant.

(6) After the claim has been filed and the office of the secretary determines the claimant has submitted (or failed to submit) all reports, documents and evidence required to be submitted, the office of the secretary shall render a decision on the claim within forty-five (45) days.

(7) A claim for benefits may be withdrawn at any time upon written notice to the secretary signed by the claimant or claimant's representative.

(8) Upon making a finding of eligibility, the office of the secretary shall, in writing, notify the claimant at claimant's last known address of its disposition of the claim. Payment shall be made to the claimant as soon thereafter as practicable, with the Justice Cabinet presenting the claim to the State Treasurer within five (5) working days.

(9) In those cases where the office of the secretary has found the claimant ineligible for a death benefit, the office of the secretary shall notify the claimant in writing at claimant's last known address of its disposition and shall set forth findings of fact and conclusions of law supporting the decision, as well as claimant's right to a hearing and review by the secretary.

Section 5. Priority and Amount of Claim Benefits. Upon final determination of eligibility for benefits, the benefits are to be paid in the manner as follows:

- (1) \$50,000 to the surviving spouse of the police officer who died; or
- (2) If the police officer has no surviving spouse, then \$50,000 to the surviving children, divided in equal portions according to the number of surviving children; provided, however, if the surviving children are less than eighteen (18) years of age, and there is no surviving custodial spouse, the state treasurer shall:
  - (a) Pay two-fifths ( $\frac{2}{5}$ ) of the amount entitled to the surviving children in equal amounts; and
  - (b) Hold three-fifths ( $\frac{3}{5}$ ) of the amount entitled in trust divided into equal accounts at appropriate

interest rates for each surviving child until such child reaches the age of eighteen (18) years. If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate; or

(3) If the police officer who died has no surviving spouse or surviving children, then \$50,000 to the surviving parents of the police officer, divided in equal portions according to the number of surviving parents of the police officer. (12 Ky.R. 1562; eff. 4-17-86; Am. 13 Ky.R. 50; eff. 8-12-86; 19 Ky.R. 1122; eff. 1-4-93.)